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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/898,958

07/03/2001

Jack V. Smith

1414.47

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21901 7590 11/27/2009  
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EXAMINER

PAGAN, JENINE MARIE

ART UNIT

PAPER NUMBER

3728

NOTIFICATION DATE

DELIVERY MODE

11/27/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@SMITHHOPEN.COM  
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|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/898,958 | <b>Applicant(s)</b><br>SMITH, JACK V. |  |
|                              | <b>Examiner</b><br>JENINE M. PAGAN   | <b>Art Unit</b><br>3728               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6, 7 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5 and 8-10 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/5/2009 has been entered.

2. This Office Action acknowledges the applicant's amendment filed on 10/5/2009. Claims 1-10 and 12-18 are pending in the application. Claim 11 is cancelled.

The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office Action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 6, 12-14 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Pharo US 4,793,123.

**Claim 6:** Pharo discloses a package that cushions items being shipped (Col 3:22-51, 62-4:5 Fig. 2):

a box 12 having a hollow interior defined by a top wall, a bottom wall, and sidewalls interconnecting said top and bottom walls;

a first inflatable bladder 11 disposed within said hollow interior of said box 12, wherein said first inflatable bladder 11 is connected to each said sidewall and

Art Unit: 3728

wherein said first inflatable bladder is disposed in protecting relation to said bottom wall of said box 12;

an opening 17 formed in said box 12;

a normally closed valve 33/34 (Further disclosed in US 4,486,910) disposed in sealing engagement with said opening 17;

said normally closed valve 33/34 having an inlet port (see Fig. 2) external to said box 12;

said inlet port adapted to be connected to a source of gaseous fluid under pressure (Col 3:22-51);

said inlet port being in fluid communication with said first inflatable bladder 11 so that said first inflatable bladder 11 is inflated when said source of gaseous fluid under pressure is connected to said inlet port;

whereby said first inflatable bladder 11 when inflated serves as a cushioning means for said item 14 during shipping

**Claim 12:** Pharo discloses said first inflatable bladder being disposed in protecting relation to said sidewalls of said box. (Col 3:62-4:7)

**Claim 13:** Pharo discloses said box is made of a rigid material. (Col 1:65-67)  
**(According to the Merriam-Webster Online Dictionary, a box is a rigid typically rectangular container.)**

**Claim 14:** Pharo discloses said box is made of a semi-rigid material.

**(The box flaps move to seal the box therefore it is also semi-rigid.)**

**Claim 16:** Pharo discloses said first inflatable bladder 11 further comprises a bottom inflatable lumen shaped to cover said bottom wall of said box.

**Claim 17:** Pharo discloses said first inflatable bladder 11 further comprises an inflatable lumen disposed near said top wall of said box 12 and is adapted to inflate between said box and said item 14.

***Claim Rejections - 35 USC § 103***

4. Claims 7, 15 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Pharo US 4,793,123 in view of Huza et al. US 5,454,407.

**Claim 7:** Pharo discloses the box 12 has four side walls and closable flaps 15 on the top horizontal and bottom horizontal sections

**Pharo does not specifically disclose:**

a second inflatable bladder 13 disposed in said hollow interior of said box 12 in cooperative relation to said first inflatable bladder

**However Huza discloses (Fig. 19):**

a second inflatable bladder 106 disposed in said hollow interior of said box 12 in cooperative relation to said first inflatable bladder 106

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second bladder to the container as taught by Huza, since Huza suggests at Fig. 19 that such a modification would provide extra protection to the article inside of the container.

Art Unit: 3728

**Claim 15:** Pharo discloses the claimed invention as stated above in claim 6 and also various was to fill the bladder with fluidic pressure but it does not specifically disclose:

a hand pump in fluid connection with said first inflatable bladder

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a hand pump to fill the bladder of Pharo since such a modification would provide an alternate way to fill the bladder with fluidic pressure.

**Claim 18:** Pharo discloses the claimed invention as stated above in claim 6 but it does not specifically disclose:

the first inflatable bladder further comprises a bleed valve disposed in fluid communication with said first inflatable bladder.

**However Huza discloses (Col 12:50-55 and Fig. 7):**

a bleed valve disposed in fluid communication with said first inflatable bladder

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bladder of Pharo to include a bleed valve as taught by Huza, since Huza suggests at Col 12:50-55 and Fig. 7 that such a modification would provide an option to release the fluidic pressure from the bladder if it is too full. Please note that in the instant application, page 6, line 8, applicant has not disclosed any criticality for the claimed limitations and that the bleed valve is optional.

***Response to Arguments***

5. Applicant's arguments with respect to claims 6-7 and 12-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Thursday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/898,958

Page 7

Art Unit: 3728

/Mickey Yu/  
Supervisory Patent Examiner, Art Unit 3728

/Jenine M Pagan/  
Examiner, Art Unit 3728